

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-9, 11-13 and 15-19 are pending in the present application. Claims 1, 12 and 16 are amended by the present amendment. Support for the amended claims can be found at least at p. 15, l. 29-p. 16, l. 8 of the specification. No new matter is added.

In the outstanding Office Action, Claims 1-9, 11-13 and 15-19 were rejected under 35 U.S.C. §103(a) as unpatentable over Marturano et al. (U.S. Patent No. 5,636,230, hereinafter Marturano) in view of Kumar (U.S. Patent No. 6,269,080).

In response to the rejection noted above, Applicants respectfully submit that amended independent Claims 1, 12 and 16 recite novel features clearly not taught or rendered obvious by the applied references.

Amended independent Claim 1 recites, in part, a retransmission control method in a multicast service providing system in which an information delivery apparatus transmits multicast information to radio terminals within a service area of the information delivery apparatus via a radio station. Some of the radio terminals of the service area are configured to send a request for retransmission of multicast information in case of an error, while others of the radio terminals are configured not to send request for retransmission. The method including:

...determining whether respective of the radio terminals within the service area is designated as a retransmission-permitted terminal permitted for retransmission of the multicast information, and determining by the information delivery apparatus, ***in accordance with a received level of a control signal sent from each of the radio terminals at a time of initial connection between each radio terminal and the information delivery apparatus, the received level being measured*** by the information delivery apparatus, that at least one of the radio terminals is permitted as being the retransmission-permitted terminal permitted for retransmission of the multicast information...

Independent Claims 12 and 16, while directed to alternative embodiments, are amended to recite substantially similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 12 and 16.

P. 4 of the outstanding Office Action contends that Marturano describes all the Applicants' claimed features with the exception of the feature of "determining by the information delivery apparatus..." recited in each of independent Claims 1, 12 and 16. In an attempt to remedy this deficiency, the Office Action cites Kumar and states that it would have been obvious to one of ordinary skill in the art at the time of the invention, to combine the cited references to arrive at Applicants' claims. Applicants respectfully submit that amended independent Claims 1, 12 and 16 recite novel features clearly not taught or rendered obvious by the applied references.

The Office Action relies, in part, on col. 6, l. 52-col. 7, l. 10 of Kumar as remedying the deficiencies admitted in Marturano. More specifically, Fig. 5 of Kumar provides a detailed explanation of the active receiver selection process, which corresponds to step 401 of the file distribution and synchronization protocol (FDSP) file distribution process shown in Fig. 4.

Kumar, however, fails to teach or suggest "determining by the information delivery apparatus, *in accordance with a received level of a control signal sent from each of the radio terminals at a time of initial connection between each radio terminal and the information delivery apparatus, the received level being measured* by the information delivery apparatus, that at least one of the radio terminals is permitted as being the retransmission-permitted terminal permitted for retransmission of the multicast information," as recited in amended independent Claim 1.

Col. 7, ll. 63-66 of Kumar, in contrast, describes that when the FDSP server receives the client Token Request messages from the responding FDSP clients, the FDSP server

selects the first responding FDSP client as the active receiver (see step 503 in Fig. 5). Kumar then describes that the base station (FDSP server) determines the retransmission-permitted terminal (the active receiver) by receiving messages from the mobile stations (FDSP clients) and selecting the first responding mobile station during the active receiver selection process.

Thus, Kumar does not teach or suggest “determining by the information delivery apparatus, *in accordance with a received level of a control signal sent from each of the radio terminals at a time of initial connection between each radio terminal and the information delivery apparatus, the received level being measured by the information delivery apparatus*, that at least one of the radio terminals is predetermined as being the retransmission-permitted terminal permitted for retransmission of the multicast information” recited in amended independent Claims 1, 12 or 16.

In contrast to Kumar, p. 15, l. 29-p. 16, l. 2 of the specification, for example, discloses that the base station (BS) measures received levels of control signals, such as connection requests sent by the mobile stations at the time of an initial connection, and the BS determines mobile stations having received levels lower than a given threshold level as mobile stations to be placed in the retransmission control. Moreover, p. 16, ll. 9-22 of the specification further describes that the use of received levels as a parameter that represents the quality of communications is based on a situation in which mobile stations with relatively low received levels have a high packet error ratio and more frequently request retransmission than mobile stations with relatively high received levels. The method of determining mobile stations having a high correlation of reception errors with other mobile stations as being the retransmission-permitted terminals makes it possible to improve the quality of communications for as many mobile stations as possible.

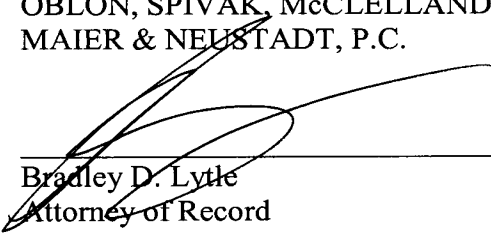
Accordingly, for at least the reasons discussed above, the asserted combination of Marturano and Kumar fails to teach or suggest all of the features of amended independent

Claims 1, 12 or 16. Accordingly, Applicants respectfully request that the rejection of independent Claims 1, 12 and 16 (and the claims that depend therefrom) under 35 U.S.C. §103 be withdrawn.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-9, 11-13 and 15-19 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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